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11 **UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF
12 CALIFORNIA**

13 CHRISTOPHER W. BOSH,

14 Plaintiff,

15 vs.

16 SHED MEDIA US INC., a Delaware
17 Corporation; and ALLISON MATHIS,
18 an individual; et al.

19 Defendants
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) Case No.: CV11 03782
)
) **DEFENDANT ALLISON MATHIS'**
) **REPLY TO PLAINTIFF'S**
) **OPPOSITION TO MOTION TO**
) **DISMISS FOR LACK OF**
) **PERSONAL JURISDICTION**
) **PURSUANT TO FED. R. CIV. P.**
) **12(b)(2)**
)
) Hearing Date: August 8, 2011
) Hearing Time: 9:30 a.m.
Hearing Location: Courtroom 7
Honorable Dolly M. Gee

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INTRODUCTION

In deciding Allison Mathis' motion to dismiss, the Court must decide the following straightforward questions:

- **Personal Jurisdiction.** The Ninth Circuit test to establish personal jurisdiction over a non-resident tortfeasor in California requires that the tortfeasor: (1) commit an intentional act; (2) expressly aimed at California; (3) causing harm the tortfeasor knew was likely to occur in California. NBA star Christopher Bosh, a non-California resident, alleges that Allison Mathis, a Florida resident, committed eleven torts aimed at Bosh while they both lived and worked in Florida. Does this court have jurisdiction over Mathis?
- **Enforceability of Forum Selection Clause.** A third party can enforce a contractual forum selection clause only if the third party is a transaction participant or closely related to a party. Bosh attempts to enforce a forum selection clause in a performer agreement between Shed Media and Mathis – an agreement to which Bosh was not a party. Bosh has no relationship with Shed. His only relationship with Mathis is as a litigant in contentious custody disputes over their minor child. Should the court apply the forum selection clause against Mathis?
- **Admissibility of the Shed-Mathis Agreement.** To make a writing admissible, foundation must be laid through the testimony of a witness with personal knowledge of the identity of the document, the execution of the document, and its delivery. Bosh attempts to authenticate a purported contract between Shed and Mathis through the declaration of his attorney, who has no personal knowledge of the requisite foundational facts. Is the contract admissible?
- **Forum Non Conveniens.** In the interest of justice, a court has broad power under 28 U.S.C. §1404 to transfer a case to another federal district where

venue is proper. Here, the parties are residents of Florida, the cost of adjudicating the claims in California is overly oppressive for Mathis, many of the witnesses are in Florida, the alleged tortious conduct occurred in Florida, and venue is proper in Florida. Should the court transfer the case to a Florida district court?

STATEMENT OF FACTS

I. The Complaint.

Bosh's complaint against Mathis consists of eleven causes of action sounding in tort, and no breach of contract claims. (Complaint, p. 1, 4-15). The alleged torts result from Mathis' engagement to be an actress on Shed Media's Florida-based *Basketball Wives* television show. (Complaint, ¶¶ 10-19). The complaint does not allege that Mathis ever appeared on *Basketball Wives*, or that she has actually made any statement about Bosh whatsoever in connection with this employment. *Id.* Nowhere in the ninety paragraph complaint does Bosh allege that Mathis has had any contact with the State of California, other than the allegation that Shed Media, a Delaware Corporation, with its principal place of business in Los Angeles, "sought her participation" in *Basketball Wives*. *Id.* at ¶ 3, 15. Bosh alleges that Mathis is a Florida resident, and that he is a resident of Texas. *Id.* at ¶ 2, 4. However, Bosh also alleges that he is "one of the most renowned players in the NBA" and plays for the NBA team Miami Heat, which is located in Miami, Florida. *Id.* at ¶ 10.

II. Undisputed Admissible Evidence

The only admissible evidence presented by either party is the uncontradicted declaration of Allison Mathis. The Mathis declaration establishes that she is a Florida resident, and that all of her actions related to *Basketball Wives* occurred in

1 Florida. Mathis Decl., ¶¶ 6,7,8. She otherwise has no contact with the State of
 2 California whatsoever. *Id.* at ¶ 13-20.

3 The Mathis declaration also establishes that Bosh was a Florida resident who
 4 lived and was employed to play professional basketball in Miami, Florida, earning
 5 \$16 million per year. *Id.* at 2, 14. Bosh has not challenged these factual assertions
 6 via his own declaration in opposition to Mathis' motion to dismiss.

7 **III. The Declaration of Bosh's Attorney You-Gong C. Amato**

8 The only evidence presented in opposition to Mathis' motion is the
 9 declaration of Bosh's attorney, You-Gong C. Amato. This declaration consists of
 10 nine exhibits, seven of them print-outs from various websites, including gossip
 11 columns from TMZ and VH-1, and five year old purported on-line profiles of
 12 Mathis. Amato Decl., Exh B-H. One exhibit is from a Florida lawsuit pending
 13 between the parties, and another is from another lawsuit filed in California by
 14 another NBA player (Gilbert Arenas) against Shed. Amato Decl. Exh A, I.

15 Exhibit A to the Amato declaration purports to contain an unexecuted- and
 16 unauthenticated-contract between Shed and Mathis. As set forth in Mathis'
 17 evidentiary objections, this and most of the rest of the exhibits are inadmissible
 18 evidence. See Mathis Evidentiary Objections.

19 **IV. Bosh's Factual Background Statement**

20 Bosh's Statement of the Facts relies primarily on speculative innuendo from
 21 inadmissible articles written on gossip blogs like TMZ and VH-1, and five year old
 22 on-line profiles of Mathis that have not been authenticated. Bosh Opposition, p. 2-
 23 4. Bosh also relies heavily on a "Forum Selection Clause" that appears in an
 24 unexecuted and unauthenticated Performer Agreement between Shed and Mathis
 25 attached as Exhibit A to the Amato declaration.

26 For example, Bosh alleges that Mathis "*appears to be*" an aspiring actress;
 27 "it is *unclear* whether [Mathis]...relocated to Florida primarily to improve her
 28 chances of being cast...[in *Basketball Wives*]; admits that "Defendant has *no*

1 *knowledge* as to where the casting interviews were conducted,” but suggests that
 2 Mathis “*may* have traveled to Los Angeles during the three rounds of casting
 3 interviews for Basketball Wives.” Bosh Opposition, p. 2-3, 5.

4 **STANDARD OF REVIEW**

5 Bosh concedes that he has the burden of making a *prima facie* showing of
 6 facts sufficient to establish jurisdiction. He concedes that this must be done
 7 through admissible evidence, and that only uncontroverted allegations of the
 8 complaint are accepted as true. Bosh Opposition, p. 4 (citing *Ballard v. Savage*, 65
 9 F.3d 1495, 1498(9th Cir. 1995) and *Roberts v. Synergistic Int'l, LLC*, 676 F.
 10 Supp.2d 934, 940-941 (E.D. Cal. 2009)). As explained in greater detail below,
 11 Bosh fails to carry his burden as even the uncontroverted allegations of the
 12 complaint fail to establish any meaningful connection between Mathis and
 13 California.

14 **LEGAL ARGUMENT**

15 **I. Bosh has not presented any admissible evidence that satisfies the** 16 **standard for establishing personal jurisdiction over Mathis**

17 To establish specific jurisdiction over Mathis, Bosh must satisfy the following
 18 three-prong test: (1) Mathis purposefully directed activities or consummated a
 19 transaction with the forum or forum resident; or purposefully availed herself the
 20 privilege of conducting activities in the forum (2) Bosh’s claim arises out of these
 21 forum-related activities, and (3) the exercise of jurisdiction is reasonable.
 22 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 802-803 (9th Cir. 2004).
 23 (California courts did not have personal jurisdiction over an Ohio defendant
 24 because his tortious conduct was not directed at California). As explained in
 25 greater detail below, Bosh has the burden of proving the first two prongs, which he
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 27
 28

1 is unable to do. *Id.* Assuming *arguendo* that Bosh could carry his burden, it would
2 be unreasonable to exercise jurisdiction over Mathis.¹

3 **A. Bosh fails to establish the first prong of the *Schwarzenegger* test:**
4 **that Mathis purposefully directed activities toward California.**

5 The first prong of the *Schwarzenegger* test requires Bosh to show that Mathis
6 purposefully *directed* her conduct toward California *not* purposefully *availed*
7 herself of the privilege of conducting activities in California. *Id.* (contra Bosh
8 Opposition, p. 5). This is a distinction with a difference. The Ninth Circuit has
9 established a higher standard -purposeful direction- for establishing jurisdiction
10 over claims sounding in tort, as opposed to contract. *Id.* Bosh incorrectly asserts
11 that this court must apply the purposeful availment test, which applies to causes of
12 action sounding in contract. *Id.*; Bosh Opposition, p. 5.²

13 To establish purposeful direction, Bosh must satisfy the Ninth Circuit's three-
14 part "effects" test, which is modeled on the Supreme Court's test in *Calder v.*
15 *Jones*, 465 U.S. 783 (1984), by demonstrating that (1) Mathis committed an
16 intentional act, (2) expressly aimed at the forum state, and (3) which caused harm
17 that she knew would likely be suffered in the forum state. *Id.* at 803. Bosh cannot
18 satisfy this heightened test, because even if he prevails on the underlying merits of
19
20

21 ¹ Bosh concedes that he does not have sufficient evidence to establish general
22 jurisdiction over Mathis. (Pl. Oppo., pgs. 4-11)

23 ² The Ninth Circuit has held that trademark causes of action sound in tort for
24 purposes of determining jurisdiction. *Polar Bear Productions, Inc. v. Timex Corp.*,
25 384 F.3d 700, 720 (9th Cir. 2004). (Bosh's first four causes of action)
26 Additionally, the Ninth Circuit has held that there is no cause of action for unjust
27 enrichment in California. *Myers-Armstrong v. Actavis Totowa, LLC*, 382
28 Fed.Appx. 545, 548 (9th Cir. 2010) (Bosh's eleventh cause of action). The
remainder of Bosh's claims are common law or statutory tort claims (claims 5-9),
and his § 17200 claim (tenth cause of action) is a "statutory tort." *Glenn K.*
Jackson Inc. v. Roe, 273 F.3d 1192, 1203 (9th Cir. 2001).

1 all his claims, he would only establish that Mathis intentionally harmed a resident
2 of Florida or Texas.

3 The Ninth Circuit requires that Bosh show wrongful conduct individually
4 targeting a known forum resident to satisfy the “express aiming” prong of the
5 *Calder* test. *Bancroft & Masters, Inc. v. Augusta National Inc.*, 223 F.3d 1082,
6 1087 (9th Cir. 2000) (California court had jurisdiction over out-of-state defendant
7 because wrongful acts were directed at a California resident).

8 Because Bosh has never been a California resident-and hasn’t established that
9 he has any contacts here- Mathis’s alleged acts could not have been “expressly
10 aimed” at a California resident, nor could Bosh establish that Mathis knew that
11 Bosh would suffer harm in California. The fact that Bosh is not a California
12 resident is fatal to his claim.

13 **B. Bosh fails to establish the second prong of the *Schwarzenegger***
14 **test: that his claims arise out of Mathis’ California related**
15 **activities.**

16 Bosh must also establish that his claims “arise out of Mathis’s forum related
17 activities.” *Schwarzenegger*, 374 F.3d 797, 802-803. He cannot do so because it is
18 undisputed that Mathis conducted no activities in California. All of her alleged
19 tortious acts occurred in Florida.

20 Bosh is so bold as to suggest that he meets this test because *Basketball Wives* is
21 aimed at national audiences, including California residents. Bosh Opposition, p. 6.
22 Under these lights, Mathis has subjected herself to personal jurisdiction in any state
23 in the union, or anywhere else in the world where *Basketball Wives* is broadcast.
24 Aside from the fact that she was terminated from *Basketball Wives*, and her image
25 has never been broadcast, this type of argument for personal jurisdiction was
26 ridiculed by the Ninth Circuit in *Schwarzenegger*:

27 Fred Martin is an automobile dealership incorporated under the laws of Ohio
28 and located in Barberton, Ohio, a few miles southwest of Akron. There is no

evidence in the record that Fred Martin has any operations or employees in California, has ever advertised in California, or has ever sold a car to anyone in California. Fred Martin maintains an Internet website that is available for viewing in California and, for that matter, from any Internet café in Istanbul, Bangkok, or anywhere else in the world. *Id.* at 799.

In *Schwarzenegger*, the court declined to exercise jurisdiction over Martin, recognizing that the mere fact that a defendant could foresee that its conduct could have an effect in the forum state is insufficient to establish specific personal jurisdiction. *Id.* at 804-805. Bosh's argument for jurisdiction is much less compelling here.

C. Exercising personal jurisdiction over Mathis is unreasonable.

To determine whether jurisdiction over Mathis is reasonable, the court must analyze seven factors: 1) the extent of defendant's purposeful interjection into the forum state; 2) the burden on defendant of defending in the chosen forum; 3) the extent of conflict with the sovereignty of defendant's state; 4) the forum state's interest in adjudicating the dispute; 5) the most efficient forum for judicial resolution of the dispute; 6) the importance of the forum to plaintiff's interest in convenient and effective relief; and 7) the existence of an alternative forum. *Core-Vent Corp. v. Nobel Industries, A.B.*, 11 F.3d 1482, 1487 (9th Cir. 1993).

None of Bosh's arguments overcome the fact that:

- (1) As explained above, Mathis has not directed activities toward California.
- (2) Defending this action from across the United States, with minimal resources, against a professional athlete earning \$16 million per year, is unduly burdensome on Mathis.
- (3) California has no interest in adjudicating an action between two non-California residents.

1 (4) California is no more an efficient judicial forum for resolution than Florida:
2 both parties reside in and all of the alleged tortious conduct occurred in
3 Florida.

4 (5) California is not important to Bosh's interest in convenient and effective
5 relief. He resides in Florida and has no connection to California.

6 (6) Florida is not only an alternative forum, but a much more suitable forum for
7 this dispute.

8 **D. Conclusion**

9 The court does not have personal jurisdiction over Mathis because Bosh has
10 failed to establish that Mathis purposefully directed conduct toward a California
11 resident, knowing that harm would likely result in California. And haling Mathis
12 into a California court is unreasonable when no California residents are involved in
13 the case and all of the acts arose in Florida.

14 15 **II. Bosh has not established that Mathis has consented to jurisdiction** 16 **in California.**

17 **A. Bosh's argument that Mathis has consented to** 18 **jurisdiction is based on inadmissible evidence and should** 19 **not be considered.**

20 Bosh argues that a forum selection clause contained in a writing attached to
21 the declaration of his attorney establishes that Mathis has consented to the
22 jurisdiction of this court. Bosh Opposition, p. 11-14; Amato Decl., Exh A. This
23 writing is inadmissible because it was authenticated by Bosh's attorney, who lacks
24 the personal knowledge -required by Fed.R.Evid. 602- to authenticate the contract.
25 Additionally, the contract constitutes inadmissible hearsay. Fed.R.Evid. 802.

26 A declarant who tries to offer a contract into evidence simply by attaching it
27 to a declaration lacks the necessary personal knowledge to authenticate the alleged
28 contract, because a writing cannot be authenticated simply by attaching it to an

1 affidavit. *U.S v. Dibble*, 429 F.2d 598, 602 (9th Cir. 1970). To make a writing
 2 admissible, foundation must be laid through the testimony of a witness with
 3 personal knowledge of the identity of the document, the execution of the
 4 document, and its delivery. *Id.* To authenticate a contract the affiant must somehow
 5 demonstrate how he knows the document to be a correct copy of a genuine
 6 contract. *Id.*

7 In *Dibble*, the United States attempted to eject Dibble, a sub-lessee, from
 8 government land. *Id.* at 600. The United States claimed that they had a contractual
 9 right to do so. *Id.* To demonstrate this right, the United States attached a multitude
 10 of exhibits, including the purported contract, to an affidavit. *Id.* The court found
 11 the contract inadmissible due to lack of foundation because the affiant had failed to
 12 establish how he knew that the document was a true and correct copy of a genuine
 13 contract. *Id.* at 602.

14 Here, Amato's declaration states "Attached hereto as Exhibit A is a true and
 15 correct copy of the complaint filed in *Mathis v. Bosh*, Circuit Court of the Ninth
 16 Judicial Circuit in and for Orange County, Florida, Civil Division, Case No. 2011-
 17 CA-7139" (Amato Decl. ¶ 2). Contained within Exhibit A is the alleged contract
 18 between Shed Media and Mathis. But nowhere does Amato lay the foundation for
 19 how she knows the alleged contract is a genuine copy. Additionally, Amato's
 20 declaration lacks any evidence establishing personal knowledge of the identity of
 21 the document or execution of the document. Further, execution of the document is
 22 not self evident, as the document only contains one of the parties' signatures. (*see*
 23 Exhibit A, Contract page 9 of 16). Therefore, Amato's declaration fails to provide
 24 the necessary foundation to authenticate the contract found within Exhibit A, and it
 25 is thus inadmissible for purposes of this motion.

26 Additionally, the contract is inadmissible hearsay because it constitutes an
 27 out-of-court statement being offered for the truth of the matter asserted.
 28 Specifically, Bosh is offering the contract as proof that Mathis and Shed Media

1 agreed to the forum selection clause found in clause 19 of the contract. (*see* Exhibit
2 A, Contract page 16 of 16). As such, the writing should not be considered.

3 **B. Assuming *arguendo* that Mathis is subject to the forum**
4 **selection clause, Bosh cannot enforce it against her because he**
5 **was not a party to the contract or a transaction participant,**
6 **and is not closely related to a party.**

7 As a general matter, a non-party, or nonsignatory, to a contract cannot invoke a
8 contractual right contained in the agreement, including a forum selection clause.
9 *Turner v. Thorworks Industries, Inc.*, 2006 U.S. Dist LEXIS 21668 (citing *Britton*
10 *v. Co-op Banking Group*, 4 F.3d 742, 744 (9th Cir. 1993)).

11 Bosh has not established that he is subject to any exception to this rule. His
12 reliance on *Holland Am. Line, Inc. v. Wartsila N. Am., Inc.*, 485 F.3d 450, 456 (9th
13 Cir. 2007), is misplaced. The holding of *Holland* was narrow, and merely
14 established that a non-party was subject to a forum selection clause where the non-
15 party was a corporate subsidiary of a party to the contract. *Id.* No such facts exist
16 here.

17 Bosh does not allege that he is a third-party beneficiary, corporate officer,
18 subsidiary or parent corporation, or successor in interest to either Shed or Mathis
19 such that he would have a colorable argument to enforce a forum selection clause
20 between those parties. Bosh has no relationship with Shed and his only
21 relationship with Mathis is as a litigant in contentious custody disputes over their
22 minor child. Bosh therefore does not even have a colorable argument to enforce
23 the forum selection clause allegedly at issue here.³

24
25
26 ³ For this reason, allowing Bosh to conduct discovery to attempt to authenticate the
27 performer agreement would be pointless. Even if he could authenticate it, he can
28 never enforce it against Mathis. Bosh has failed to provide the “colorable”
showing of jurisdiction that would permit the Court to allow jurisdictional
discovery. See Bosh Opposition, p. 18-19. In any event, the court should not

1 Bosh's argument that Mathis' filing "compulsory counterclaims" in Florida
 2 state court equitably estops her "from avoiding the mandatory forum selection
 3 clause" is similarly misplaced. Bosh Opposition, 13. Mathis is not estopped
 4 because Bosh, a non-signatory, never had the type of relationship with the
 5 contracted parties that permits equitable estoppel to apply. In *Turner v. Thorworks*
 6 *Industries, Inc.*, the court held that a non-signatory party could estop the plaintiff
 7 from avoiding the forum selection clause because the plaintiff was relying on the
 8 contract for his claims, and the defendant had purchased the company from a
 9 contracted party. 2006 U.S. Dist. LEXIS 21668, *9-11 (E.D.Cal. Mar. 28, 2006).

10 This close relationship between the defendant and the previous owner of the
 11 company was what estopped the plaintiff from avoiding the forum selection clause.
 12 *Id.* Here, unlike the defendant in *Turner*, Bosh does not have this close relationship
 13 to Mathis or Shed Media. In fact, Bosh has no relationship with Shed Media and
 14 his only relationship with Mathis is as a litigant in contentious custody disputes
 15 over their minor child. Therefore, the doctrine of equitable estoppel does not apply
 16 to Mathis and she can avoid the forum selection clause.

17 **C. Assuming *arguendo* that Bosh has the power to enforce the**
 18 **clause against Mathis, Bosh would still be barred from**
 19 **enforcement because he has only alleged tort claims.**

20 As a general rule, a forum selection clause only applies to tort claims if
 21 resolution of the claims relates to interpretation of the contract. *Manetti-Farrow,*
 22 *Inc. v. Gucci America, Inc.*, 858 F.2d 509, 514 (9th Cir. 1988) (where tort claims
 23 were covered by the forum selection clause because the adjudication of the torts
 24 necessitated interpreting pricing terms in a contract)., Bosh's tort claims do not
 25 require interpretation of the contract. His complaint cites no provision in the
 26 alleged contract that requires interpretation by a court. His allegations stem from

27
 28 exercise its discretion to permit jurisdictional discovery here, it would just present
 another burden for Mathis, who does not have the means to pay for such litigation.

1 *Basketball Wives* providing a platform for Mathis to commit torts against him.
 2 (Complaint, ¶ 13-16).

3 **III. Alternatively, this court should transfer this case to the United**
 4 **States District Court, Middle District of Florida based on *forum***
 5 ***non conveniens*.**

6 In the interest of justice, a court has broad power pursuant to 28 U.S.C. §1404
 7 to transfer a case to another federal district where venue is proper. 28 U.S.C. §
 8 1404(a). Here, Bosh's choice of venue is both unreasonable and overly
 9 burdensome to Mathis. Thus, should the court decide to deny Mathis' motion to
 10 dismiss, she respectfully asks the court to use its broad power under 28 U.S.C. §
 11 1404 to transfer the lawsuit to a Florida District Court - a proper venue where both
 12 Bosh and Mathis are residents.

13 In deciding to transfer due to *forum non conveniens*, courts balance the
 14 following factors: 1) the plaintiff's choice of forum; 2) the convenience of the
 15 parties; 3) the convenience of the witnesses; 4) the location of the evidence; 5)
 16 which forum's law applies; 6) the interest of justice; and 7) administrative
 17 considerations. *Id.* Additionally, when balancing these factors, courts may also
 18 consider the respective parties' contacts with the forum, the contacts relating to the
 19 plaintiff's cause of action in the chosen forum, and the difference in costs of
 20 litigation in the two forums. *Allstar Marketing Group, LLC v. Your Store Online,*
 21 *LLC*, 666 F.Supp.2d 1109, 1130 (C.D.Cal. 2009). (Transfer was denied because a
 22 concrete amount of sales of goods could be demonstrated to have taken place in
 23 California).

24 A plaintiff is provided with less deference for his choice of forum when the
 25 plaintiff elects to pursue his case outside of his home forum as Bosh did here.
 26 *Allstar*, F.Supp.2d at 1131. Additionally, "...[a] plaintiff may not, by choice of an
 27 inconvenient forum, 'vex', 'harrass', or 'oppress' the defendant by inflicting upon
 28

1 expense or trouble not necessary to his own right to pursue his remedy.” *Gulf Oil*
 2 *Corp. v. Gilbert*, 330 U.S. 501, 508 (1947).

3 Bosh has selected a forum that is inconvenient, oppressive, and overly
 4 expensive to Mathis. Mathis is a person of minimal resources and has no present
 5 employment. Bosh earns \$16 million per year.

6 Florida is a convenient location for both Mathis and Bosh, as they both live
 7 there. Florida is where the alleged tortious conduct occurred, and the majority of
 8 evidence and witnesses are located there. When all of these factors are balanced,
 9 the interest of justice calls for transfer of this case to a Florida district court..⁴

11 CONCLUSION

12 The outcome of this motion rests on three major issues:

- 13 • Does the court have personal jurisdiction over Mathis?
- 14 • Is the forum selection clause in the contract between Mathis and Shed Media
- 15 admissible and enforceable by Bosh?
- 16 • In the interest of justice should this court transfer the case to a Florida
- 17 district court?

18 The answer to each of these issues falls in Mathis' favor. Bosh has failed to
 19 establish that Mathis purposefully directed tortious conduct toward a California
 20 resident. And Bosh has been unable to show that he has any power to enforce the
 21 forum selection clause. Finally, due to the nonexistent contacts with California, the
 22 convenience for both parties to adjudicate the case in Florida, and Mathis' inability
 23 to effectively defend the case in Los Angeles, a transfer to a Florida district court

25
 26 ⁴ Bosh's request for transfer to Texas instead of Florida defeats the purpose behind
 27 forum non conveniens. Were the case transferred to Texas many of the same
 28 monetary problems would exist. Additionally, transferring to Texas would mean
 evidence and witnesses would have to travel from Florida to Texas if the case went
 to trial.

1 would serve the interest of justice.

2 Therefore, Mathis respectfully requests that the court grant her 12(b)(2) motion
3 or, in the alternative, transfer the case to the United States District Court for the
4 Middle District of Florida.

5
6 Dated: July 25, 2011

/s/ Conal Doyle
By: _____
CONAL DOYLE